

~~10/577134~~

**A letter to the US Designated Office concerning submission under 35 U.S.C. 37 and
International Application PCT/RU2004000416 concerning of priority claim**

RE: a possible failure to file a subsequent application in time **APR 20 2006** **Rec'd PCT/PTO** **08 MAY 2006**

Applicant is submitting to the United States Designated Office under 35 U.S.C. 37 an International Application PCT/RU2004000416 from a filing date October 21, 2004, with RU as a receiving office (RO), and EPO as ISA. The PCT Application is based on national application RU2004101391 from a filing date January 21, 2004, so it has priority from January 21, 2004.

We also have a national application RU2003131195 from October 24, 2003 which is now abandoned. By decision of an expert committee and in an accordance with a protocol of negotiations from July 10, 2005 it was established that following claims: 1, 4, 5, 8-11, 13-15 of the application RU2004101391 (patent RU2272709) get conventional priority from October 24, 2003 that is a filing date of RU2003131195.

Due to Russian Patent Laws (Article 19, p. 4) and with RU as RO we decided that we cannot claim priority from October 24, 2003 but only from January 21, 2004. Nevertheless, to be sure there would be no problem with priorities the PCT application was submitted October 21, 2004 that is before 12 months from October 24, 2003. To be sure that there would be no failure to file in time a subsequent application before USPTO as the Designated Office I have contacted a registered patent attorney March 16, 2006 with a letter and a phone call and indicated that the submission has to be done before April 24, 2006. The attorney chosen was Maria Eliseeva from Houston Eliseeva, LLP. By request I have sent them the signed Declaration for Patent Application as well as the invention itself and made transfer of money in advance as a compensation of the service. As there was no confirmation that the application is already submitted I made a call April 18, 2006 and sent a letter to Maria Eliseeva April 20, 2006 that I insist on submitting of the application the latest April 24, 2006. Maria Eliseeva has promised to send the papers but failed or ignored the task. My last letter was April 23, 2006 without any reply from them. Please, find copies of my letters in the appendix. All communications from the side of Maria Eliseeva were in Russian. All letters between us are at a server <http://mail.rambler.ru>. I can provide all originals of the letters as a prove if it would be necessary as well as make translation from Russian to English.

Please, consider that I claim foreign priority benefits of RU2004101391 having a filing date January 21, 2004 not October 24, 2003. Please, if it would be decided that foreign priority benefits have to be from October 24, 2003, consider that the failure to file the application in time is occurred in spite of due care having been taken.

Sincerely Yours

Oleg Kulikov
Munich. April 30, 2006



Attachment: Appendix

APPENDIX. My letters to Maria Eliseeva

From: "oleg kulikov" <oleg.kulikow@rambler.ru>
Subject: Re: FW: PCT to US application
Date: Thu, 16 Mar 2006 09:50:20 +0300
To: "Maria Eliseeva" <maria.eliseeva@ghme.com>
Copy: <kobiako@hotmail.com>

Dear Maria Eliseeva!

We would like to file a US national application from our WO 2005/070650 (PCT/RU 2004/000416 applied as PCT 2004.10.21, priority from 2004.01.21) The application has some claims in reference to a previous Russian application which is abandoned -RU2003131195/12 (033593) with priority from 2003.10.24. A Zipped file of the application is available at <ftp://137.193.77.51/pub/PATENTS/>

The basic fees what you charge are acceptable and we would like to proceed. I can make a bank transfer from the Deutsche Bank to cover the fees as soon as you command. Can we start?

Best regards
Your
Oleg Kulikov

P.S. Greetings from Iouri Kobiako. He is fine and healthy. I am sending a copy of the letter to him.

From: "oleg kulikov" <oleg.kulikow@rambler.ru>
Subject: Re: FW: PCT to US application
Date: Thu, 20 Apr 2006 07:44:40 +0400
To: "Maria Eliseeva" <maria.eliseeva@ghme.com>
Copy: inna.golovach@ghme.com , <kobiako@hotmail.com>

Dear Maria,

I didn't get from you any information about what is going with my patent application. I sent you a letter 16th of March (see below) and made a call to your assistant after getting no reply on it from you and forwarded a copy of the letter to her 21st of March. I asked you in the letter and her by the call to file a national application before 24th of April which is the date of priority. Our application has mixed priority and Iouri Kobiako was insisting that we have to apply before 24th of April. So, I made for from my side all what I was asked and was expecting the service be done in time.

I have at the moment that your agency do not reply to my questions. Your oral promises, like the last one from the day before yesterday that you will make the application in time and that you will inform me by a letter (yesterday) - are not going to be done.

Meanwhile we can speak about a damage to a client at least of \$750 if you will not manage to apply my papers to the next Monday. I hope that you will find time and make things in a proper order. Otherwise I will complain to your supervising officials. This is a business, not game, please, do it in a proper way.

I am sending a copy of this letter to Iouri Kobiako for information.

Sincerely your
Oleg Kulikov

From: "oleg kulikov" <oleg.kulikow@rambler.ru>
Subject: Re: Application and related documents
Date: Sun, 23 Apr 2006 13:11:22 +0400
To: "Maria Eliseeva" <maria.eliseeva@ghme.com>

Dear Maria,

This time your file worked. So, it is most evidently the previous file was damaged in communication. It happens and your declaring that no one had problems before with your files is at least groundless if not to say it is offensive.

So, coming to your file I would prefer to send the information disclosure statement later in according with existing regulating. As you probably know: "An information disclosure statement shall be considered by the Office if filed by the applicant within three months of the date of entry of the national stage as set forth in sect; 1.491 in an international application."

I have no time to check what you have sent me as Application data sheet. Again, due to regulations: "An application data sheet is a sheet or sheets, that may be voluntarily submitted in either provisional or nonprovisional applications, which contains bibliographic data, arranged in a format specified by the Office. An application data sheet must be titled "Application Data Sheet" and must contain all of the section headings listed in paragraph (b) of this section, with any appropriate data for each section heading. If an application data sheet is provided, the application data sheet is part of the provisional or nonprovisional application for which it has been submitted."

Therefore there is no need in your Application data sheet and if to consider a number of errors in the documents proposed from you as well as possible inconsistencies between application data sheet and other documents I reject sending the Application data sheet you have proposed.

Also I wish that the documents applied to USPTO would have no relevance to your agency. So, I insist that the Return Receipt Postcard would have my post address Oleg KULIKOV, Tannenstrasse 9, Oberschleissheim, D-87654 GERMANY.

Also, I wish that instead of the check having data of your agency the fees would be paid from my Credit Card, so it would have no relevance to your agency. The Credit Card information has to be included to the package of documents.

My policy not to mention your agency in any documents is in a precise coincidence with your words that your agency does not work with such clients as me. So you would be fine with them.

In summary,

Please, print out from the ZIP-ed archive without any changes or revisions a following files:

- 1_Transmittial_Letter_VISA.pdf*
- 2_Declaration_KULIKOV.pdf*
- 3_Credit_Card_number_KULIKOV.pdf*
- 4_description_KULIKOV.pdf*
- 5_claims_KULIKOV.pdf*
- 6_Figures_KULIKOV.pdf*
- 7_abstract_KULIKOV.pdf*

Please, do not use any files other from this precisely archive named KULIKOV4ELISEEVA.zip.

Please, arrange the print-outs in the order of the list above and enclose at the envelope to the printed documents a Return Receipt Postcard with my post address Oleg KULIKOV, Tannenstrasse 9, Oberschleissheim, D-87654 GERMANY

and kindly sent the package by Express Mail to following address:

*United States Patent and Trademark Office
Customer Service Window, Mail Stop PCT
Randolph Building
401 Dulany Street
Alexandria, VA 22314.*

*I wish you would succeed in sending of the application no later than next Monday April 24, 2006.
Plesae, confirm receipt of the archive.*

*Sincerely your
Oleg Kulikov*